THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.33235 OF 1998

Between:

Md.Azeemuddin

……Petitioner

Vs.

1) The Managing Director, APSRTC, Musheerabad, Hyderabad and another

……Respondents.

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.33235 OF 1998

O R D E R:

This writ petition is filed for a writ of Certiorari to quash the proceedings, dated 03.10.1998 issued by the second respondent, wherein, the petitioner's claim for absorption as Cleaner was rejected. The petitioner also sought for a consequential declaration that he is entitled for absorption as Cleaner.

The petitioner claims to have worked as Cleaner in vehicle bearing registration No.APK 1188, which plied on the route Ramannapet to Mungodu. The said route was nationalized with effect from 08.06.1989. In terms of the Circular, dated 10.11.1983, which provides for the absorption of displaced employees of the permit holders issued by the Andhra Pradesh State Road Transport

Corporation (APSRTC), the petitioner applied for absorption as cleaner. As his case was not considered, he filed W.P.No.13845 of 1991, which was disposed of by this Court on 24.10.1991 following the earlier judgment of this Court, dated 18.03.1989 in W.P.No.3654 of 1989. As the petitioner's case was not considered, he filed another writ petition in W.P.No.18993 of 1993. The said writ petition was disposed of on 16.12.1993, wherein this Court once again directed that the petitioner's claim for the post of Cleaner will be considered as and when vacancies arise.

As the petitioner was un-successful in getting employment despite the disposal of the second writ petition, he filed another writ petition, namely, W.P.7597 of 1996. The said writ petition was disposed of by a Division Bench of this Court on 13.11.1997, wherein, the following finding is recorded by the Division Bench:

> "*From the material placed before this Court it is evident that the respondents have violated the orders of this Court in not absorbing the petitioner as Conductor.*"

The Bench directed the respondents to consider the case of the petitioner if not yet considered pursuant to the orders passed in W.P.No.18993 of 1993, within three months from the date of receipt of the orders.

As the respondents have not considered the case of the petitioner, he filed C.C.No.1329 of 1998 and an order was passed

on 15.09.1998 by this Court to consider the case of the petitioner for absorption.

In compliance of the orders in W.P.No.7597 of 1996, dated 13.11.1997 and C.C.1329 of 1998, dated 15.09.1998, the second respondent-Regional Manager rejected the case of the petitioner for absorption and it is apt to extract the relevant portion of the order:

> *"As per the above notification, the applicants for the post of Cleaners should have ITI qualification and should have completed apprenticeship in A.P.S.R.T.C. The present Selection Committee while considering his case observed that he is neither in possession of ITI certificate nor had undergone apprenticeship in A.P.S.R.T.C. and as he has not satisfied any of the basic eligibility criteria required for the post of Cleaner .had not selected him for absorption. Hence, he cannot be appointed as Cleaner into the services of A.P.S.R.T.C.".*

Aggrieved by the said order of rejection, the petitioner filed the present writ petition.

Counter affidavit is filed by the Corporation through its Chief Law Officer. The respondents in the counter affidavit reiterated the contents of the rejection order impugned in this writ petition. They reiterated that the petitioner was not identified for the said post as he was junior to those displaced employees who worked in Vehicle No.1188 and therefore, he was not selected by the Selection Committee in the year 1991. It was further reiterated that in circular No.PD 112/87, dated 05.10.1987, a pass in I.T.I. and completion of

training in APSRTC as apprentice are prescribed as necessary qualifications for the appointment to the post of Cleaner and that since the petitioner failed to have both these qualifications, his claim for absorption as Cleaner was rejected. Though the writ petition was heard in part on 22.06.1997, the learned Standing Counsel was not present. Therefore, the case was adjourned to today. Even today, the learned Standing Counsel is not present.

Heard Sri V.Mallik, learned counsel for the petitioner and perused the record.

Sri Mallik, learned counsel submits that the petitioner's claim for absorption is pending since the year 1991. He invites my attention to an entry made in S.No.15 of Section 'E', Clause-4 of APSRTC Regulations, which was a pre-revised publication prior to the year 2002, which shows that the qualifications for the post of Cleaner are that he must be able to read and write simple sentences in English, Hindi or one of the regional languages. The learned counsel also submits that the said Rules having been revised in the year 2002, cannot be applied to the petitioner, whose claim as already noted above is pending since 1991.

I find force in the submissions of the learned counsel for the petitioner. It is not in dispute that the petitioner has been making various attempts to get employment under the scheme of the Corporation since the year 1991. As the Rule, which prescribed

the qualifications for the post of Cleaner was amended in the year 1992, there is no justification for the respondents to apply the said Rule in the case of the petitioner. This virtually amounts to giving retrospective operation to the Rule. Had the petitioner been absorbed prior to 2002, there would have been no occasion for the respondents to insist on the petitioner to satisfy the qualifications of a pass in I.T.I. and successful completion of apprenticeship. I am therefore, of the view that the rejection of the petitioner's claim by applying the revised rule to the case of the petitioner is wholly un-sustainable.

For the aforementioned reasons, the writ petition is allowed. The respondents are directed to re-consider the case of the petitioner without reference to the revised Rule, which prescribes passing of I.T.I. and completion of apprenticeship. It is made clear that as and when vacancies are available and if the petitioner is otherwise found suitable in terms of the Circular, dated 10.11.1983, the respondents shall consider the case of the petitioner for absorption. No order as to costs.

C.V.NAGARJUNA REDDY J.,

Dt.27.06.2007
tjs